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State of Utah v. Brent Mauchley : Reply Brief

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IN THE SUPREME COURT OF THE STATE OF UTAH

STATE OF UTAH,

Plaintiff/Petitioner,

v.

BRENT MAUCHLEY,

Defendant/Respondent.

Case No. 20010551-SC

REPLY BRIEF OF PETITIONER

**ON WRIT OF CERTIORARI TO
THE UTAH COURT OF APPEALS**

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REPLY BRIEF OF PETITIONER

ARGUMENT

I. THERE IS A DISTINCT TREND TOWARDS THE TRUSTWORTHINESS STANDARD

Defendant claims that the trend towards the trustworthiness standard has little momentum because some of the jurisdictions that have adopted the standard still require independent proof that a crime was committed. Br. of Resp. at 16-18. Contrary to defendant's claim, however, jurisdictions that apply the trustworthiness standard do not continue to require independent evidence of a crime.

For example, in *State v. Hafford*, 746 A.2d 150, 173 (Conn. 2000), the Connecticut Supreme Court explained that "the corroborative evidence need not be sufficient, independent of the statements, to establish the corpus delicti." Connecticut follows the trustworthiness standard because it "eliminate[s] the complexities and difficulties

attendant upon the application of the corpus delicti rule requiring independent corroborating evidence of all the elements of a crime before an accused's statements may be admitted into evidence." *Id.* at 174. The prosecution in *Hafford* had introduced some independent evidence that the defendant sexually assaulted the victim. *Id.* at 174. This evidence corroborated, and therefore "support[ed] the trustworthiness of the defendant's confession." *Id.* Independent evidence of the crime, if available, will often demonstrate the trustworthiness of the confession. *See id.* Nevertheless, independent evidence of the corpus delicti is not required before a trustworthy confession can be admitted. *Id.* at 173.

Likewise, in *State v. Zysk*, 465 A.2d 480, 484 (N.H. 1983), the New Hampshire Supreme Court held that "[p]roof of the crime by evidence independent of the confession is not necessary," although the prosecution had introduced evidence to show that a burglary occurred. Similarly, in *Reynolds v. State*, 309 S.E.2d 867, 868 (Ga. Ct. App. 1983), the prosecution produced independent evidence of the crime. Nevertheless, that evidence was not necessary because the rule in Georgia is that a confession is admissible when it is "corroborat[ed] in any material particular." *Id.*

Defendant claims that the Ninth and Tenth Circuits also require the prosecution to demonstrate that a crime has occurred before a confession is admissible. Br. of Resp. at 17-18. The rule in the federal courts, however, was announced by the United States Supreme Court in *Opper v. United States*, 348 U.S. 84, 93 (1954). That rule rejects the requirement that independent evidence establish the corpus delicti before a confession can be admitted. *Id.* The Tenth Circuit has recognized that "*Opper* rejected a view which had

earlier been the rule in many jurisdiction and was deeply rooted in the common law that independent evidence was required to corroborate the corpus delicti.” *United States v. Wiseman*, 172 F.3d 1196, 1212 (10th Cir. 1999). The Ninth Circuit has also recognized that “*Opper* ‘rejected the traditional corpus delicti rule.’” *United States v. Corona-Garcia*, 210 F.3d 973, 978 (9th Cir. 2000).

Following the United States Supreme Court’s ruling in *Opper*, at least sixteen states, plus the District of Columbia, have adopted some form of the trustworthiness standard. Br. of Pet. at 8-11. Of these seventeen jurisdictions, at least twelve of them have completely abandoned the corpus delicti rule and do not require independent proof that a crime was committed. *Id.* at 8-10.¹ There is also additional evidence, beyond that cited in the State’s opening brief, of the trend towards the trustworthiness standard. For example, although Florida follows the corpus delicti rule, two judges of the Florida District Court of Appeal recently urged the Florida Supreme Court to abandon the corpus delicti rule and adopt the trustworthiness standard in attempt and conspiracy cases. *Carwise v. State*, No. 5D00-2828, 2002 WL 312513, at *1 - *3 (Fla. Dist. Ct. App. 2002) (Harris, J., concurring specially; Sharp, W., J., dissenting). The court also noted in

¹ In its opening brief the State classified Texas as completely abandoning the corpus delicti rule. However, in *Chavero v. State*, 36 S.W.3d 688, 696 (Tex. Ct. App. 2001), the Texas Court of Appeals applied the corpus delicti rule. Nevertheless, under Texas statute a defendant’s oral statement is admissible if, at the time it was made, it “contained assertions unknown by law enforcement but later corroborated.” *Moore v. State*, 999 S.W.2d 385, 400 (Tex. Ct. App. 1999). Thus, while Texas may not have completely abandoned the corpus delicti rule, it has embraced some aspects of the trustworthiness approach by statute.

Carwise that the Florida Legislature had recently adopted the trustworthiness standard for cases involving sexual abuse and unauthorized money transmission. *Id.* at *3 n.2; FLA. STAT. ANN. §§ 92.565 and 560.125(8) (West 2002). Accordingly, there is a distinct trend toward the trustworthiness standard and away from the corpus delicti rule.

II. THE TRUSTWORTHINESS STANDARD PROVIDES THE BETTER METHOD FOR DETERMINING THE RELIABILITY OF CONFESSIONS AND ENHANCING THE TRUTHFINDING PURPOSE OF CRIMINAL TRIALS

Defendant touts the corpus delicti rule as a safeguard to prevent the admission of false confessions. Br. of Resp. at 12-15. He overestimates the rule's utility, however.

The corpus delicti rule is not an effective safeguard against false confessions because it judges the admissibility of a confession without regard for the substance of the confession. *See People v. McMahan*, 548 N.W.2d 199, 206 (Mich. 1996) (Boyle, J., dissenting). Rather than evaluating the confession itself, the rule requires only that the prosecution establish independent evidence that a crime was committed by someone. *State v. Johnson*, 821 P.2d 1150, 1162 (Utah 1991).

By ignoring the substance of the confession, the corpus delicti rule does little to prevent the admission of false confessions. It is not difficult to imagine a scenario where the police have independent evidence of a crime, and yet obtain a false, but voluntary confession from an innocent individual. It is also conceivable that a dishonest police officer, a self-interested accomplice, or a malicious enemy might seek to frame an innocent defendant by fabricating a story that the defendant confessed to committing an actual crime. *See McMahan*, 548 N.W.2d at 207 n.11. The corpus delicti rule would

allow these false confessions to be admitted without regard for their reliability, simply because independent evidence of the crime existed. *See Johnson*, 821 P.2d at 1162.

Conversely, the trustworthiness approach puts the substance of the confession squarely at issue and ensures that a particular statement is sufficiently reliable for the factfinder to hear it. *See McMahan*, 548 N.W.2d at 206. The trustworthiness approach requires the prosecution to introduce “substantial independent evidence” to corroborate “the essential facts admitted sufficiently to justify a jury inference of their truth.” *Opper*, 348 U.S. at 93. If the goal is to prevent the admission of false confessions, the more effective approach is to examine the trustworthiness of the confession, not simply whether independent evidence demonstrates that someone committed a crime. Thus, the trustworthiness approach provides the better method for preventing the admission of false confessions because it ensures that a confession is reliable before it is admitted.

The United States Supreme Court has recognized the superiority of the trustworthiness standard as a means to determine the reliability and admissibility of confessions. *See Smith v. United States*, 348 U.S. 147, 153-156 (1954). In *Smith*, the Court was well-aware of the problem of false confessions. *See id.* at 153. Yet, it adopted the trustworthiness approach, rather than the corpus delicti rule, as the method for determining the reliability and admissibility of a confession. *See id.* at 153, 156.

Besides better ensuring the reliability of a confession, the trustworthiness approach also increases the factfinder’s ability to ascertain truth by allowing a reliable confession to be admitted, even when independent evidence of a crime is lacking. Defendant claims

that only a “remote” possibility exists that a case may arise in which “some evidence corroborates a confession but the State does not have enough evidence to show that a crime actually occurred.” Br. of Resp. at 24-25. This case, however, demonstrates that such cases do arise. It is undisputed that defendant’s confession was truthful and voluntary. Yet, under the corpus delicti rule, the State cannot prosecute defendant for a crime he admits having committed. *See State v. Mauchley*, 2001 UT App 177, ¶1.

It is not difficult to conceive of future cases where the corpus delicti rule will continue to hinder the fact finder’s ability to ascertain truth. For example, although a defendant may truthfully and voluntarily confess to sexually abusing a child, the corpus delicti rule would prevent the fact finder from hearing the confession if no physical evidence of the abuse existed and the victim was either too young or too scared to testify. *See State v. Ray*, 926 P.2d 904 (Wash. 1996). Likewise, the fact finder would not hear the truthful and voluntary confession of a murderer who smothers a newborn baby if the medical examiner could not rule out the possibility that the death may have resulted from natural causes. *See State v. Johnson*, 83 P.2d 1010, 1014-18, 1016 (Utah 1943). Thus, there is a significant likelihood that the corpus delicti rule will continue to thwart the truthfinding purpose of criminal trials by preventing the trier of fact from considering a trustworthy and voluntary confession. *See Ray*, 926 P.2d at 910-11 (Talmadge, J., dissenting). The trustworthiness approach avoids this result. *See id.*

III. THE TRUSTWORTHINESS STANDARD IS CLEAR AND EASILY APPLIED

Defendant complains that the trustworthiness standard is vague because it does not define “how much and what kind of evidence is needed to satisfy its requirements.” Br. of Resp. at 25 (internal quotations and citation omitted). On the contrary, the United States Supreme Court has clearly defined the standard. *See Oppenheimer*, 348 U.S. at 93. The kind of evidence needed to satisfy the standard is evidence that corroborates the essential facts of the confession. *Id.* The amount of corroborative evidence required is “substantial” evidence “sufficient[] to justify a jury inference” that the essential facts of the confession are true. *Id.* The independent evidence need not corroborate each material element of the charged offense, nor is it necessary that there be no inconsistencies whatsoever between the independent evidence and the confession. *Fontenot v. State*, 881 P.2d 69, 79 (Okla. Crim. App. 1994). “Unless inconsistencies between the confession and the other evidence so overwhelm the similarities that the confession is rendered untrustworthy, it remains within the province of the jury to determine whether the confession is credible.” *Id.*

This Court is familiar with the trustworthiness standard and has readily applied it in determining the admissibility of a defendant’s confession. For example, in *State v. Decorso*, 1999 UT 57, ¶ 78, 993 P.2d 837, this Court held that the defendant’s confession to a fellow inmate was “sufficiently corroborated to make it reliable” and therefore admissible. In *Decorso*, the independent evidence corroborated defendant’s confession that he had robbed a shoe store, struggled with the clerk, taped her mouth shut, hit her in

the mouth with the butt of a gun, broke her teeth, and murdered her by stabbing her several times in the neck and chest. *Id.* at ¶¶76-78. The defendant argued that certain aspects of his confession were not corroborated by independent evidence, specifically, his admissions that he did not go to work after the murder, and that he raped the victim. *Id.* at ¶ 77. Nevertheless, this Court held that the confession was reliable because it was “sufficiently corroborated.” *Id.* at 78. Thus, as this Court demonstrated in *Decorso*, the trustworthiness standard is not vague or difficult to apply.

IV. DEFENDANT’S CONFESSION WAS TRUSTWORTHY

Defendant complains that there is a “total lack” of evidence corroborating his confession. Br. of Resp. at 26. On the contrary, the independent evidence corroborated every detail of defendant’s confession, except for the fact that a crime had been committed. R. 37-38.

Defendant states that “all the evidence, excluding the confession,” indicates that his insurance claim was valid. Br. of Resp. at 27. Thus, defendant essentially claims that his confession was not trustworthy because the State failed to produce independent, corroborating evidence that he committed insurance fraud by submitting a fraudulent claim. The State does not dispute that it lacks independent evidence that defendant’s insurance claim was fraudulent. If such independent evidence existed, the State could have satisfied the corpus delicti rule. *See Johnson*, 821 P.2d at 1162.

Under the trustworthiness standard, however, the independent evidence need not be sufficient to establish the corpus delicti of the underlying crime. *Oppen*, 348 U.S. at

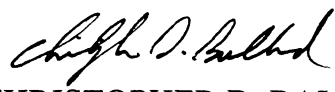
93. In this case, the independent evidence corroborated defendant's confession that he and his wife obtained an insurance settlement by claiming that they had fallen into a hole outside the FHP hospital in South Salt Lake. R. 37-38. Defendant fails to identify any inconsistency between his confession and the independent evidence. Therefore, defendant's confession was trustworthy and admissible under the trustworthiness standard.

CONCLUSION

For the foregoing reasons, and those explained in the State's opening brief, this Court should adopt the trustworthiness standard, reverse the court of appeals, and affirm defendant's conviction.

Respectfully submitted this 3rd day of July 2002.

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MAILING CERTIFICATE

I hereby certify that on 3 July 2002, I mailed, postage prepaid, two accurate copies of the foregoing REPLY BRIEF OF PETITIONER to:

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